

APPEAL NO. 032747
FILED DECEMBER 8, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on July 8, 2003. The issue in dispute was "What is the correct amount of attorney fees for [respondent 2 (attorney)]?" The parties present at the CCH reached an agreement on this issue and the hearing officer issued a decision consistent with that agreement. The hearing officer determined that the attorney was paid twice for services listed under the Attorney Fee Processing System sequence No. 12 (Docket No. 1), and that the duplicate fees have been repaid by the attorney to respondent 1 (carrier). The appellant (claimant) appealed, arguing that he "never agreed for them to take away the amounts for the attorney's fees." The appeal file does not contain a response from the carrier.

DECISION

The appeal in this case was not timely filed and the decision and order of the hearing officer have become final. Section 410.169.

A request for appeal is timely if it is mailed on or before the 15th day after the appellant receives the decision and if it is received by the Texas Workers' Compensation Commission (Commission) on or before the 20th day after the date of receipt of the decision. Section 410.202; Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)). Records of the Commission show that the hearing officer's decision was mailed to the parties on August 11, 2003. Under Rule 102.5(d), unless the great weight of evidence indicates otherwise, the claimant is deemed to have received the hearing officer's decision five days after it was mailed; in this case deemed receipt is August 16, 2003. The 15th day after the deemed date of receipt of August 16, 2003, excluding Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code, was September 9, 2003. The claimant's appeal was postmarked on October 14, 2003, and the appeal was received by the Commission on October 17, 2003. The claimant's appeal was not timely filed with the Commission.

The decision of the hearing officer is final in the absence of a timely appeal. Section 410.169. Determining that the appeal was not timely filed, as set forth above, we have no jurisdiction to review the hearing officer's decision.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MR. RUSSELL R. OLIVER, PRESIDENT
221 WEST SIXTH STREET
AUSTIN, TEXAS 78701.**

Michael B. McShane
Appeals Panel
Manager/Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Chris Cowan
Appeals Judge